# IN NORTH CAROLINA

all Sections.

#### Charlotte Cotton Market.

| These figures represent prices pa | fd |
|-----------------------------------|----|
| to wagons:                        |    |
| Strict good middling 10 5-        | 16 |
| Good middling 10                  | -4 |
| Strict middling 10                | -4 |
| Middling 10 1                     | -8 |
| Tinges 8 1-2 to 9 3               | -4 |
| Stains 7 1-2 to 9.                | 00 |

#### General Cotton Market. Middling. Savannah, quiet ................. 10 1-2 New York, quiet ...... 11.10 Houston, steady ...... 10 3-4

#### The Convention at Gastonia.

Gastonia.-At the opening session of the convention of the Young People of the Association Reformed Presbyterian church, Rev. Dr. J. Knox Montgomery, of New Concord, Ohio, conducted the devotional exercises, which were followed by the opening nished. address, delivered by Rev. William Duncan of Charlotte, on "A Revival of Religion.

The nomination committee recommended the following officers, all of whom were elected.

President, Rev. A. C. Rogers, of Rock Hill, S. C.; vice-president, J. A. Russell, of Charlotte; secretary, Mrs. Willis Douglass, of Due West, press secretary, Julian S. Miller, of Charlotte; railroad secretary, Major W. W. Boyce, of Rock Hill, S. C.; treasurer, J. T. McGill, of Gastonia,

The address of the morning was delivered by Rev. R. J. Miler, of Pittsburg, Pa., editor of the Christian Union Hearald, and organ of the Uni-ted Presbyterian church. He talked

#### Lawyers Hold Memorial Exercises.

Lake Toxaway Special.-The meeting of the State Bar Association here is now in full swing, the attendance being the largest in its history and the interest in the proceedings being all that the most sanguine could de-

Among the principal events of the day were; The strong, logical and elaborate discussion by Judge Pritchard on the relation of the State and the federal courts, in the course of which he advocated a federal divorce law; and deeply impressive memorial services which were held in honor of members of the association who had passed away since the last annual meeting.

An address in memory of Col. H. C. Jones was delivered by Col. Tillett, one in honor of Charles F. Warren was spoken by E. S. Simmons. S. H. Isler, C. B. Watson, F. H. Bus-bee, W. S. O'B. Robinson and others followed Col. Tillett in his address on Col. Jones. Memorial speeches were delivered by Col. Davidson, Kope Ellis and others on Mr. Warren and by John E. Woodward and Lieutenant-Governor Winston on Mr.

# Farmers Institutes.

The following schedules of farmers' institutes, for the mountain regions, is announced by the board of agriculture: Henderson county, Wednesday, August 22 at Hendersonville: Transylvania, Thursday, 24, at Brevard: Polk, Friday, 25, at Columbus; Haywood, Saturday, 26; Macon, Monday, 28, at Franklin; Jackson, Tuesday, 29, at at Robbinsville; Cherokee, Friday, September 1; Clay, Saturday, 2, at Hayesville; Madison, Monday, 4, at Marshall; Buncombe, Tuesday, Weaversville; Yancey, Wednesday, 6, at Bakersville; Watauga, Saturday, 9, at Boone; Ashe, Tuesday, 12, at Laurel Springs: Alleghany, Wednesday, 13, at Sparta.

The new directory of Durham, published by the Hill Directory Company, placed the population of Durham at This population is for Durham pro-

It is stated with authority that the Standard Oil Company is the recent purchaser and present owner of the Norfolk and Southern railroad.

The board of aldermen of Marion have raised the license on the saloons operating in the city from \$500 to \$1,000 per year.

Attempts are being made to unite the opposing political factions in Virginia.

# Assailant Pays Penalty.

New Iberia, La., Special.-Friday afternoon Amos Holmes paid the penalty for his crime committed on Avery's Island last February, when he criminally assaulted a white woman. The execution took place in the parish jail in the presence of about forty witnesses. The trap was sprung at 12:30 and Holmes' neck was broken by the acres in cotton, 1,300 in corn and 600

# New Enterprises.

The hank of Richlands, Onslow county was chartered. The amount of authorized capital stock if \$25,000, of which \$4,000 has been paid in. The incorporators are: C. F. Lawrence, R. C. Shaw, C. C. Thomas, and S. A. Johnson, all of Durham.

A charter is granted the A. W. Vickory Company, of Greensboro, to man-ufacture handles, hubs and other hardwood products, capital stock \$25,000.

#### CASHIER DEWEY GUILTY

Many Newsy Items Gathered From Defaulter Who Took All a Bank's Money Gets Five Years.

Newbern, Special.-After fortyeight hours' confinement in a little, stuffy room in the hot July temperature, the jury in the case of Thos. W. Dewey, accused of embezzling \$100,000 from the Merchants' and Farmers' guilty Saturday afternoon at 4:30. The court was surprised when the announcement was made, as it was thought that they would hang on till the last minute and then cause a mistrial.

There was no sensational nor emotional features. Dewey took the verdict as if he had expected it, and showed no signs of disappointment. Judge Jones then made a brief speech, in which he said it was the saddest duty of his office which he had to perform, but that the jury had rendered a verdict according to the evidence and it became a most unpleasant task to him to make the sentence, but in accordance with evidence and the verdict he felt that a severe sentence was necessary. He therefore sentenced Dewey to six years in prison. Notice of appeal was given and Dewey was put under \$40,000 bond, which he fur-

John Patterson, the negro who has been on trial for burning his wife, was found guilty of murder in the second degree Saturday and sentenced to the penintetiary for twenty-nine years. Peterson's crime was most brutal. He went to the room where the woman was sleeping, saturated her clothing with oil and set the bed on fire. The woman ran out in a blaze and was burned to a crisp. The crime was com-mitted December 4th.

Newbern, Special.—The trial of Thomas W. Dewey, ex-cashier of the Farmers' and Merchants' Bank, began here Wednesday. Ex-Gov. Aycock made a last effort to obtain a continuance, which was overruled by Judge Jones. The defense claimed a lack of material evidence from Pelletier, an associate of Dewey, and that they were unable to procure his affidavit, he being outside the State's jurisdiction. The work of selecting a jury required about 45 minutes. D. W. Roberts, bookkeeper for the bank, identified the handwriting of various entries in the books as Dewey's and showed by a comparison of the day book and the ledger, the amount of Dewey's defalcations to be \$110,000, these having been made by means of falsifying entries in the day book. Witnesses Borden, of Goldsboro, and Dyer, of Norfolk, testified to the defendant's or-ders to forward amounts to a New York bank.

#### A Geological Survey.

The United States Geological Survey in North Carolina will be continued. Mr. Arthur Keith will continue areal and economic surveys in A the western part of the State. He tribute was paid to the life and character of Hon. W. A. Dunn by Judge McRae, while Messrs L. S. Overman, quadrangles and in co-operation with quadrangles and in co-operation with the State of North Carolina, will make an economic survey of Highland Forest, assisted by Mr. D. B. Sterrett. The Charlotte and Matthews quad-rangles will be topographically surunder the direction of Mr. V. H. Manning, assisted by Mr. T. H. Moncure. Primary control will be extended in this locality by Mr. C. B. Kendall. The Cowee quadrangle be surveyed by a party of which Mr. Duncan Hannegan will have charge. Mr. Robert Coe will have charge a party that will do topographic work in the Gatesville, Smithfield, Winton and Clinton quadrangles. The Saluda and Yorkville quadrangles will be surveyed by Mr. W. L. Miller's party. The general supervision of all topographic work in this State is un-Webster: Swain, Wednesday, 30, at der Mr. V. H. Manning. The streams Bryson City: Graham, Thursday, 31, of North Carolina will be measured Mr. R. H. Hall, assisted by Mr. B. S. Drane and others.

# New Enterprises.

A charter is granted the Griffin Manufacturing Company, at Griffin, Pitt County, to manufacture buggles, wagons, farming implements, lumber, etc., and to gia cotton, capital stock \$25,-

In an interview with Clerk Wilson, of the State Department, who has 22,000, this being quite an increase charge of the corporation matters, he over the population of two years ago. said that there was quite a notable increase in the number of corporations chartered this year as compared with last year. The month of June showed the greatest number of charters ever granted, the total reaching 90. corporations which procure charters in that month escaped paying taxes for that year, and hence some corporations hold over until June.

# State Convict Labor.

It has been agreet by the State Prison authorities that im place of one dollar a day they will hereafter charge \$1.25 a day for convict labor. This is to apply to existing contracts. The demand for convict labor is greater than the supply. The earnings of the State's Prison are hereafter to be invested in North Carolina State bonds. if these can be secured at a fair figure. Forty thousand dollars is to be spent in this way and this week a purchase of \$3,400 in bonds was made The camps on the State farms are in good condition and there are 1,300

# North Carolina Bar Association

Lake Toxaway Special.—The largest meeting ever held of the North Carolina Bar Association convened Wednesday night in the ball room of the Tosaway Inn. Counting the members and their families, there are 160 in attendance. Besides these, there are quite a number of summer guests

to swell the crowd.

The executive committee in the af ternoon elected 28 new members.

For the Week Ending Monday, July, 10th, 1905.

Over the larger portion of the State the weather during the past week was very favorable for agricultural interests. Alternate sunshine and showers prevailed, and the precipitation was generally well distributed, relieving bank here, brought in a verdict of the droughty conditions that existed The Force of the Explosion Wrecked in most central counties at the close of the preceding week. There were a few severe local storms in Wayne, Alamance, Davidson and Rockingham counties, and too much rain in a number of other counties, chiefly those west of the Blue Ridge, where farm work was interrupted, and soil and crops were washed by heavy rains. But the large majority of reports by crop correspondents are exceptionally favorable, and indicate a promising outlook for crops generally. The mean temperature for the week averaged about 80 degrees (72 degrees in the mountains) which was nearly 4 degrees above normal; early in the week high maximum temperatures occurred, the 4th being the warmest day, but cooler weather prevailed during the middle and latter portion, though the nights were not cool enough to check the growth of crops. Nearly everywhere the soil has been thoroughly moistened, crops have been invigorated and are growing rapidly. Laying by crops and sowing field peas was interrupted in the west, but elsewhere farm work was not materially hinder-

Generally cotton is thrifty and is year; lice have nearly disappeared; there was too much rain for cotton in some eastern counties, namely, Northampton, Duplin, Wayne, Halifax and Edgecombe, causing somewhat rank growth, in some others the plants are still small and late, but on the average cotton is now in fine condition. Corn is not so good, but has improved during the week; old corn seems to be earing well; the plants are large and vigorous in the west in consequence of abundant rain; young corn is growing rapidly, but much of the lowland crop in places was injured by too much water .Tobacco is somewhat variable in size, but as a rule is growing nicely; topping continues in the north; the crop is ripening rapidly in places, but cutting and curing are not yet general, though under way in most eastern and southern counties; some tobacco on sandy land is suffering from excessive moisture. Cutting oats and rye is proceeding in the extreme west; outs is good; thrashing wheat continues, with poor yield, but some say wheat is grading fairly well; some oats and rye in shock too long in the west were damaged by frequent rains. Sowing field peas in stubble land was actively carried on this week, and they are coming up well. Sweet potatoes and peanuts have improved. Melons are com-ing into market. Grapes are suffering some from blight; peaches of good quality are abundant, but apples are

inferior. Rains reported: Nashville 2.43; Davis 0.75; Goldsboro 5.32; Lumberton 1.98; Newbern 2.86; Weldon 0.78; Wilmington 2.40; Moncure 1.43; mona 2.00; Angier 2.60; Ramseur 1.63; Greensboro 4.04; Raleigh 1.30; Charlotte 1.30; Asheville 4.00.

# New Hospital Building.

Raleigh, Special.-Work begins next week on the \$40,000 building for females at the Hospital for the Insane here. Large quantities of material are such an extent that it gave way arriving. As has been stated, the building will extend towards the westward from the present main building will extend towards the westward from and will be of identically same material and same style of archtecture. The hospital is one of the most thoroughly built structures in North Carolina, though it was erected about fifty-five years It is a very imposing building and Miss Dix, who chose the site, selected what is easily the most beautiful location anywhere in the vicinity of Raleigh.

# North State News.

Governor Glenn has appointed the following eight directors of the North Carolina Railroad: W. T. Brown, Winston; W. H. Williams, Newton; Hugh Chatham, (president) Elkin; L. Banks Holt, Graham; Thomas H. Vandeford Salisbury: John W. Lambert, Thomas ville; Allen J. Ruffin, Hillsboro; S. C. Penn, Reidsville. The last four are uew. There were 305 aspirants.

The State authorizes the Wilmington Towing and Transportation Company to change its name to the Thorpe & Applegate Company, and in corporates the L. Richardson Drug Company, of Greensboro, to change its and four torpedo boats left Karan: name to the Justice Drug Company.

The Secretary of State has had re-markable good luck in discovering valuable documents among the masses of old papers piled in cases in the gallery of the old State Library and room of the enrolling clerk. His help ers have been so busy this year that nothing has been done, but a little later the work will be resumed, and it is expected that more good results will

# Shot From His Bicycle.

Newbern, Special.-After a quarrel over the possession of a base ball mitt, Walter Grice shot Sam Bryant, inflicting probably fatal injuries. Bryant was riding a bicycle, and Grice stepped from behind a tree and fired three shots. One bullet entered the abdomen and lodged in the back. It is believed the other two bullets went wild. The affair occurred at 8.30 this morning. Grice escaped and | Delayry at Paris and to a Paris nevis cannot be found.

# NORTH CAROLINA CROP BULLETIN COAL MINERS KILLED

126 Ruman Lives Suddenly Spuffed Out By Accident

WATISTOWN, WALES, DISASTER

the Machinery at the Mouth of the Shaft and Cut Off All Communication With the I terior.

Cardiff, Wales, By Cable. - An explosion of fire-damp in No. 2 pit of the United National Colliery Company as Wattstown, in the Rhondda Valley, th center of the great Welch coal fields. Tuesday morning is believed to have resulted in the loss of at least 120 lives. The explosion was followed immediately by the belching clouds of smoke and dust from the pit shaft, in which 750 men were working. The force of the explosion wrecked the machinery at the mouth of the pit. All communication with the doomed men in this direction is completely cut off. No. 1 shaft, adjoining, has ordinarily afforder communication with No. 2. The 830 men in No. 1 and the few who eamp ed from No. 2 were drawn up.

A rescue party descended, but it work was seriously impeded by the four air and the falling makes of early dislodged by the explosion. Altogether 59 bodies have been recovered.

Herole efforts have been made to: branching well; it shows exceptionally hours to reach the entombed men, but heavy bloom for the season of the late Tuesday night the absence of all sound from the interior of the role. told the tale of the worse disaster that has taken place in South Wales all a

raphtly and hundreds of women and children and thousands of men thronged to hend of the put, scoking intor mation. The mountain roadways were crowded all the afternoon, and there are now streams of people in the neighborhood of the mine all contributing to the pitiful scenes. Efforts a rescue were still in progress at not night and currents of fresh air we still being driven through the abbut the rescuers are now without hope of reducing the list of Latalities.

#### Three Miners Killed.

Birmingham, Ala., Special.-Three men were killed and five injured b eaving in of a rock at Sayrete mines, north of Birmingham, late Tue day a groon. The mines belong to Alabama Consolidated Coal and Iron Company.

#### Rescue Efforts Fall.

Postmund, Prussia, By Cable, -Efres to rescue the thirty-nine men who were ant off by fire in the Bornssia coal mine Tuesday have been without suc and it is feared that they have per hed.

# Big Dam Gives Way.

Asheville, Special.-The dam recent completed at the Asheville School this city, creating a large not ficial lake, broke Tuesday evening 30 O'clock, releasing the entire body water into the French Broad River ter in the river had risen more that five feet and was still rising. The breek was caused by the ex-essive tainfall for the past few days, which in creased the pressure on the dam to

# Effort to Rescue Cargo.

Norfolk, Va., Special.-After having remained buried in the sand beneats feet of water for five years, an efstyle fort is now to be made to rescue the cargo of the schooner Munic R. Ber. gen, which was wrecked near Chica moco, N. C. The cargo consists of 200 tons of steel rails, a locomotive and other machinery. Captain John Whenlien, of Washington, N. C., will build a wharf out to the wreck and by the use of a sand pump remove the send and save the cargo.

# Bloody Encounter.

Warsaw, By Cable Three bleads encounters between troops and strik ing shoe malores, in which about persons were killed or wannied, a curred Tuesday, The strikers was marching through the city to to her to house demanding the towering rents by 10 per cent. Many proper-ters one of four-ecouplied with the and of the strikers.

# Another Japanese Victory.

Tokie, By Cable.-The Navy Department has received the following to: from Admiral Kataoka; "Two crufkersk on July 10 with soldiers en heard for the purpose of landing and eccupying Cape Notoro, After some combardment the place was take: The lighthouse and buildings work teft undestroyed. Four prisons were taken."

Nikolaievsk, Asiatic Smeleapanese have already landed or 2,666 troops at Korsakovski falm

# Alleged Spy Sentenced.

Tokie, by Cable, The Indement the case of Captain A. E. Blugger' the French resident who was at aced to ten years' imprimument rd labor on the charge of belaesian spy, declares the accuse ! god in searching for and resecrets. The ecents one Hongonin reported the may its of Japanese troops to Captain

#### WITTE NAMED FOR ENYOY

Czar Became Convinced That Negotiations Might Fail If His Appointee as Chief Plenipotentiary Went to Washington and Now Consents to Replace Him by Russia's Great Constructive Statesman, Long Out of Favor.

St. Petersburg , Special .- M. Muraweiff has resigned his position as chief peace plenipotentiary. It may be regarded as practically certain that he will be replaced by M. Witte, president of the committee of ministers, who all along has been considered the Russian statesman pre-eminently qualified to undertake the difficult task of negotiating peace with Japan.

Though the Emperor on two previous readiness to make the appointment. actually signed until Foreign Minister Mr. Witte's warm supporter, has had an audience with the Emperor.

M. Witte's selection will undoubtedly be halled as a practical assurance of peace. While it would be a mistake to denominate him as a "peace-at-anyprice" man, M. Witte earnestly believes that the struggle should be ended and should be succeeded by an understanding between Russia and Japan which would insure peace in the Far East for half a century. Indeed, he is personally believed to be in favor of a Russo-Jananese alliance.

M. Muraveiff's retirement, ostensibly owing to reasons of III health, is in reality due to the fact that the Emperor became convinced of the fact that the negotiations might be jeopardized if he went to Washington, M. Muraquaintance with the questions involved, and with equal frankness ex- for the needs of the conferces, pressed satisfaction that he had been. The location of the navy yard is one relieved.

#### Train Stalled in Tunnel.

Andrews, on the Murphy branch, says: Heavy rain, practically a cloudburst, caused numerous washouts, flooding Hampshire and forms the Portsmouth the track over two feet for a half mile harbor. The shores are picturesque, near Topton. A number of trestle sup dotted here and there with cottages ports were carried away, paralyzing and farm houses, while a number of traffic. Train No. 19 stalled in a tun- hotels on either the Maine or the nel five miles east of Andrews. Over New Hampshire shore are easily aca hundred were on board all night, cessible. The trestle at the east entrance of the tunnel gave way on the passing of the rear coach, and ditching was narrowly wires are crippled.

# Growers Sue Tobacco Trust.

Clarksville, Tenn., Special.-Suit executive committee of the Dark Tobacko Growers' Association against the American Tobacco Company and buyers, who are alleged to have boycotted the association, for \$250,000 alleged damages. The suit is brought on behalf of 7,000 planters who are members of the association and is based on an alleged action of the defendants in trying to break up and destroy the association, in restraining competition, and also for the alleged boycotting of the association's tobacco in the Clarksville market, in Bremon and in other foreign markets

# Lawson Leaves Omaha.

Omaho, Neb., Special.-Thomas W. Lawson, after a five hours' stay in the city, left for Missouri Valley, Ia., where he is to address the Chautauqua Assembly on the "System," His coming has been extensively heralded, and a large number of persons gathered at the station to see the famous antagenist of the Standard Oil Company and the Copper Trust.

# Other Disclosures Likely.

Oyster hay Special.-It is regarded here as probable that other sensational developments may grow out of the leak in the cotton crop report, which Secretary Wilson, of the Department of Agriculture, is investigating. Nothing definite has reached the President regarding possible future disclosures. In fact, by direction of the President, Secretary Wilson is conducting the inquiry along his own lines with a deter mination to sift the matter to the bot tom. Attorney General Mondy will determine finally whether estiminal prose cutions are to be instituted by the government against any one of the alloged consisters.

# Hubbard's Letter Endorsed.

Augusta, Ga., Special.-The cotton exchange through its president, J. H. Walker, wired President Receivelt in support of the action taken by President Hubbard, of the New York Catton Exchange. The telegram says that the Augusta exchange heartily endorses the letter of W. C. Hubbard. recently sent you, and solicits prompt co-operation in stamping out and exposing the corruption developed in the bureau of statistics."

# THE MEETING PLACE

Peace Envoys Will Hold Their Sessions at Portsmouth, N. fl.

#### IS AN IDEAL PLACE FOR MEETING

Adjournment From Washington Will Be Taken to the Navy Yard at the Mouth of the Piscatawa River.

Washington, Special-Assistant Secretary Pierce announced that the plenipotentiaries of Russia and Japan had agreed upon Portsmouth New Hampshire, as the meeting place for occasions has flatly declined to accept the sessions of the peace conference to M. Witte, he has now indicated his be held outside of Washington. The sessions will be held in the govern-The commission, however, will not be ment navy yard at Portsmouth, in the new building just completed there. Lamsdorff, who throughout has been The selection of Portsmouth was mutually acceptable to the peace envoys of the belligerents, as, besides being a cool and comfortable place for this season of the year, it has the advantage of offering a building on government soil, which is regarded as an important consideration. This will insure seclusion, as no one can gain admission to the navy yard without per-

> While the sessions will be held in the navy yard, the plenipotentiaries and their staffs will live in nearby

Portsmouth, N. H., Special.-The new general store building just completed, is the largest and most imposing of any in the navy yard, being four stories in height and of ample vieff himself, upon consideration, quite dimensions. It is of brick and brown frankly recognized his lack of diplo- stone and at present unoccupied. matic training and his want of ac- Rear Admiral Mead, the commandant, said that it could be readily furnished

offering all the advantages of a Northern summer resort. It occopies an island in the Piscataqua river, almost Asheville, Special.-A special from in the ocean. Its view commands tho wide mouth of the river, which is the boundary between Maine and New

#### May Prosecute Holmes.

Oyster Bay, L. I., Special.-It is reavoided. The train was brought to a garded here as not nullkely that erim stop in the tunnel. Investigation inal prosecution may result from the ahead revealed another washout bridge investigation of the cotton report loak. 50 feet from the west end of the tun- in the Department of Agriculture Thes nel. The train is still unable to pro- subject has not yet been presented to ceed either way. The coaches were the President in a formal way, aipacked with people, two in a seat, though he is familiar with most of the some standing all night. Many women details of the inquiry. United and children attending the Topton bar- States District Attorney Beach, of becue were aboard. A majority of the Washington, was of the opinion, after passengers walked to Andrews over a cursory examination of a part of the the flooded tracks for breakfast. The evidence adduced in the investigation, that a criminal proceeding would not against Assistant Statistician Holmes, who is alleged to have profited by giving advanced informawas entered by a committee from the tion of the condition of the cotton crop to certain brokers. The Department of Justice is not inclined to acdecision to institute criminal proceed ings has been reached, the subject is being considered by Attorney General Moody, who later will take the matter up with the President. In view of the opinion by the United States district atterney that a criminal prose-cution against Holmes would not lie. Secretary Wilson has intimated that be would suggest to President Roosea recommendation to Congress that legislation be enacted to cover cases of similar character involving a breach of trust.

# News of Mutiny From Japs.

Sipinghai, Manchuria, By Cable-The news of the mutiny in the Black Son reached the Russian army through the Japanese, who fired night shells charged with proclamations conveying the information into the Russian advanced posts, scartering the proclamations broadcast. Stain is falling in torreuts, and all activity at the front has ceased.

# Convicted Officers' Case Up.

Washington, Special.—The papers in the case of Major Frank De L. Carrington, United States army, tried by court martial and civil courts in the Philippines for misappropriating the funds of the Filipino Scouts who went to the St. Louis Exposition, and sentenced to dismissal from the army by the court and to imprisonment for a term approximating sixty years by the civil courts, were sent to President Roosevelt for review. The papers contain the approval of the Secretary of War and judge advocate general of the army.

# Wants Mutineers Given Up.

St. Petersburg, Special-Negotiations between Russia and Roumania on the question of the surrender of the crew of the Kninz Potemkine are in prog-Foreign Minister Lamsdorff and Rossett-Solesco, the Roumanian minister here, held a conference Monday on the subject, but no decision was sist on the surrender of the men, not as political prisoners, to which Roumania would object, but as criminate guilty of murder and theft.